Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the fifth periodic report of Belarus*

1. The Committee against Torture considered the fifth periodic report of Belarus (CAT/C/BLR/5) at its 1623rd and 1626th meetings (see CAT/C/SR.1623 and 1626), held on 27 and 30 April 2018, and adopted the present concluding observations at its 1642nd and 1645th meetings, held on 10 and 14 May 2018.

A. Introduction

2. The Committee welcomes the submission of the fifth periodic report of Belarus as well as the written replies provided to the Committee.

3. The Committee welcomes the dialogue with the State party's delegation and the responses provided orally to the questions and concerns raised during the consideration of the report.

B. Positive aspects

4. The Committee welcomes the ratification of and accession to the following international instruments by the State party:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in November 2016;

(b) The Council of Europe Convention on Action against Trafficking in Human Beings, in November 2013.

5. The Committee also welcomes the State party's initiatives to revise its legislation in areas of relevance to the Convention:

(a) Amendment of the Trafficking in Persons Act in December 2014 to expand the definition of trafficking in persons;

(b) Amendment of the Principles of Crime Prevention Act 2014 concerning domestic violence;

(c) Amendment of the International Labour Migration Act in January 2016 to introduce protection for immigrant domestic workers;

(d) The Act on Granting Refugee Status, Complementary Protection, Asylum and Temporary Protection to Foreign Citizens and Stateless Persons in the Republic of Belarus (the 2016 Refugees Act), which entered into force in July 2017.

* Adopted by the Committee at its sixty-third session (23 April–18 May 2018).

C. Principal subjects of concern and recommendations

Issues pending from the previous reporting cycle

6. The Committee notes the information provided by the State party on 23 October 2013 on the implementation of the recommendations contained in paragraphs 6, 11 and 14 of the Committee's concluding observations on the fourth periodic report of Belarus (CAT/C/BLR/CO/4), in which the State party was called upon to follow up on its previous concluding observations by ensuring the provision, in practice, of fundamental legal safeguards; independent investigations; and independent monitoring mechanisms of all places of deprivation of liberty. The Committee regrets that the State party has not implemented its recommendations under the follow-up procedure.

Fundamental legal safeguards

7. While noting the specific provisions guaranteeing the basic legal safeguards from the moment a person is apprehended, such as access to a lawyer and notification of a relative within 12 hours, and the measures taken by the State party to introduce use of audiovisual, electronic and other technical means in the interrogation rooms of pretrial detention facilities in 2016 (through amendment of the Act on Detention Procedures and Conditions), the Committee remains concerned about the lack of full implementation of all the fundamental legal safeguards in line with paragraph 13 of the Committee's general comment No. 2 (2007) on the implementation of article 2 (arts. 2, 11 and 12). In particular, the Committee is concerned about the following issues:

(a) The absence of a monitoring mechanism to assess whether all the fundamental legal safeguards are adequately provided from the moment a person is apprehended;

(b) That article 206 (3) of the Code of Criminal Procedure, which provides for the possibility of a medical examination for a detainee by a doctor or other specialist, if necessary, does not guarantee an automatic mandatory and independent medical examination upon request by a detainee, in particular from the moment of detention in police custody, at which point many allegations of torture and ill-treatment have been reported, and that access to a doctor is at the discretion of law enforcement officials. The Committee is also concerned at information about the reported lack of confidentiality and the deliberate delays in conducting the relevant medical examinations in police custody, leading to the loss of important evidence;

(c) Reports that Council of Ministers decision No. 909 of 20 July 2006, which regulates the Unified State Offences Registration and Record-keeping System, has not in practice ensured prompt registration of all persons deprived of their liberty following apprehension and the access of lawyers and relatives to that register has not been regularly guaranteed. The Committee regrets the absence of data on administrative detention.

8. The State party should ensure, in law and in practice, that all detainees are afforded all the fundamental legal safeguards from the outset of their deprivation of liberty in accordance with international standards, including the safeguards mentioned in paragraphs 13 and 14 of the Committee's general comment No. 2. In particular, it should:

(a) Continue its efforts to ensure the right to have prompt and confidential access to an independent lawyer, or to free legal aid, when needed, and contact with a family member or any other person of their choice;

(b) Ensure the right to request and receive a prompt and confidential medical examination by an independent doctor and, unless the doctor explicitly requests otherwise, ensure that it is conducted out of hearing and out of sight of the police from the outset of the detention. The State party should guarantee in practice the independence of doctors and other medical staff dealing with persons deprived of their liberty, ensure that they duly document all signs and allegations of torture or ill-treatment and provide the results of the examination without delay to the appropriate

authorities and make them available to the detained person concerned and his or her lawyer;

(c) **Strengthen its efforts to ensure the right to have all periods of deprivation of liberty accurately recorded immediately after arrest in a register at the place of detention, including administrative detention, and in a central register of persons deprived of their liberty and to have detention reports drawn up accordingly so as to prevent any cases of unrecorded detention, and ensure that their respective lawyers and relatives have access to the registers;**

(d) **Collect data on the performance of the police concerning the provision of fundamental safeguards to persons deprived of their liberty, including comprehensive data on cases in which police officers have been the subject of disciplinary or other measures for failing to respect such safeguards, and provide this information in its next report to the Committee.**

Inadmissibility of confessions obtained through torture and ill-treatment

9. The Committee remains seriously concerned about allegations that the State party's law enforcement officers frequently resort to the use of torture and ill-treatment to extract confessions from suspects held in pretrial and temporary detention facilities, and that in many cases in which defendants in criminal cases have alleged torture before the courts, the presiding judges have not ordered investigations or declared their confessions to be inadmissible, even though this is provided for in the State party's legislation. The Committee regrets that the State party did not provide any information on several cases in which this was alleged to have occurred, as requested by the Committee (arts. 2, 11, 12 and 15).

10. **The State party should:**

(a) **Take further measures to promote its declared policy of zero tolerance of torture and ill-treatment by publicly and unambiguously condemning torture in all its forms. It should clearly warn law enforcement agencies that any person committing such acts or otherwise complicit or participating in torture or other ill-treatment will be held responsible before the law and subject to penalties proportional to the gravity of the crime;**

(b) **Ensure in practice, in line with the Committee's previous recommendation (see CAT/C/BLR/CO/4, para. 18), that statements obtained by torture are declared inadmissible as evidence in any proceedings, except when invoked against a person accused of torture. The State party should ensure in its legislation that in any case in which a person alleges that a confession was obtained through torture, the proceedings are suspended until the claim has been thoroughly investigated;**

(c) **Review cases in which defendants' claims of having been tortured to extract confessions were not investigated, such as those of Sergey Khmelevsky, Kirill Smolyarenko and Arthur Evglevsky, and conduct prompt and impartial investigations into the allegations;**

(d) **Provide the Committee, in its next report, with information on the cases in which confessions obtained through torture have been deemed inadmissible, the progress of any investigations into allegations of torture made in any previous cases and any criminal proceedings brought against public agents who extracted such confessions, including the punishment imposed.**

Independence of the judiciary

11. The Committee welcomes recent amendments made by the State party to its Code on the Judicial System and the Status of Judges, which transferred responsibility for key aspects of the functioning of the judiciary from the Ministry of Justice to the Supreme Court. Nevertheless, the Committee remains concerned that the President of Belarus exerts significant control over the appointment, promotion and dismissal of judges or prosecutors, and at frequent reports that judges appear to take direction from the Executive in reaching

decisions in sensitive cases relevant to the Convention. The Committee is also concerned that recent legislative changes provide for the possibility of judges being appointed for renewable five-year terms rather than indefinitely (arts. 2 and 6).

12. **The State party should strengthen the independence of the judiciary in line with the Basic Principles on the Independence of the Judiciary, in part by reducing the control of the President over the appointment, promotion and dismissal of judges and providing them with security of tenure.**

Effective investigation of allegations of torture and ill-treatment

13. The Committee continues to be deeply concerned by reports that the practice of torture and ill-treatment is widespread and that the State party's authorities are presently failing to conduct prompt, impartial and full investigations into such allegations and to prosecute the alleged perpetrators, as reflected in the information provided by the State party. For example, of the 614 reports of acts constituting torture or ill-treatment received by the State party's Investigative Committee and other relevant officials between 2012 and 2015, only 10 were subject to criminal investigation under article 426 (3) of the Criminal Code, none of which had reportedly resulted in a criminal conviction as of 2018. The Committee is concerned at reports that the Investigative Committee lacks independence from the Executive branch and does not have specialized units tasked with investigating allegations of torture and ill-treatment. The Committee is further concerned that the State party did not provide information in response to its request for examples of cases in which officials accused of torture were suspended from duty pending an investigation.

14. The Committee deeply regrets the unsatisfactory response by the State party's authorities to allegations of torture and ill-treatment committed against individuals arrested in connection with the demonstrations in December 2010, including those made by Andrei Sannikov. The Committee is concerned that public officials were again alleged to have committed many acts of torture and ill-treatment in the context of a series of arrests carried out in anticipation of and in connection with protests between February and March 2017.

15. The Committee is concerned at the reports of improper and ineffective investigation carried out by the Investigative Committee into allegations of torture in custody, such as in the case of Igor Ptichkin, who died in Minsk pretrial prison No. 1 on 4 August 2013. The Committee notes that the crime was prosecuted on the basis of inadequate medical care rather than torture, despite the allegations to that effect (arts. 2, 4, 11, 12, 13 and 16).

16. **The Committee urges the State party to take all necessary steps to:**

(a) **Establish dedicated, specialized units within the State party's Investigative Committee to which persons deprived of their liberty can safely and confidentially submit complaints of torture and ill-treatment, including allegations of sexual violence;**

(b) **Ensure that all complaints of torture and ill-treatment are promptly, effectively and impartially investigated, and adopt measures to strengthen the independence from the Executive of the Investigative Committee in order to enhance their ability to carry out this function;**

(c) **Ensure that, in cases of alleged torture and ill-treatment, suspected perpetrators are suspended from duty immediately and for the duration of the investigation;**

(d) **Review the State party's efforts to date to investigate allegations of torture and ill-treatment made in 2010 by individuals, including Andrei Sannikov, Vladimir Neklyaev, Ales Mikhalevich, Andrei Molchan, Pavel Plaska, Alexander Otroschenkov, Natalia Radina and Maya Abromchick and in 2017 by Tatyana Revyaka;**

(e) **Compile disaggregated statistical information relevant to the monitoring of the Convention, including data on complaints, investigations, prosecutions and convictions in cases of torture or ill-treatment.**

Identification of law enforcement officers

17. While noting the State party's information that on-duty police officers carry an identification badge, the Committee remains concerned that not all law enforcement officers, including riot police and State Security Committee personnel, comply with this obligation when on duty. In this connection, the Committee notes with concern the numerous allegations about the lack of proper identification of the officers who have carried out arrests in plain clothes, in particular during the peaceful demonstrations in March 2017 (arts. 2, 12 and 13).

18. **The State party should strengthen its compliance with legislation that requires all law enforcement officers on duty, including riot police and State Security Committee personnel, to wear visible identification so as to ensure individual accountability and protection against acts of torture and ill-treatment. In addition, it should promptly and effectively investigate and, as appropriate, punish law enforcement officers alleged to have acted in breach of the Convention.**

Psychiatric hospitalization

19. The Committee is concerned at reports that involuntary hospitalization and medical treatment in a psychiatric hospital are at times employed for non-medical reasons, such as a retaliatory measure, which was also noted by the Special Rapporteur on the situation of human rights in Belarus in his recent report (see A/HRC/35/40, para. 92). The Committee also deeply regrets the lack of information in respect of any effective investigation into the allegations of Igor Postnov that he had been forced to undergo psychiatric treatment in retaliation for his criticism of the Government's policies and health care. The Committee remains concerned that an independent investigation into his allegations of involuntary treatment has not been carried out by an independent investigative body separate from the Executive's control. The Committee is equally concerned at the allegations of Alexander Lapitski that he had been forced by the judiciary to undergo medical treatment in a psychiatric hospital and was found guilty by a court in Minsk of having committed the "socially dangerous acts" of insulting the President of Belarus and two judges. The Committee is also concerned at the lack of inspection and monitoring of psychiatric hospitals to corroborate any similar complaints in this regard (arts. 1, 2, 12, 14 and 16).

20. **The Committee urges the State party to:**

(a) **Ensure that psychiatric hospitalisation is not misused to detain persons for non-medical reasons and that hospitalization for medical reasons is decided only upon the advice of independent psychiatric experts and that such decisions can be appealed;**

(b) **Ensure that the Mental Health Care Act provides for effective legal safeguards concerning involuntary hospitalization, as well as involuntary psychiatric and medical treatment in psychiatric institutions, and that such safeguards are enforced in practice;**

(c) **Establish an independent complaints mechanism and investigate effectively, promptly and impartially the complaints of torture and ill-treatment of all persons hospitalized in psychiatric institutions, including the allegations of Igor Postnov and Alexander Lapitski and, as appropriate, bring those responsible to justice and provide victims with remedies and redress;**

(d) **Ensure that an independent body has access to make regular preventive monitoring visits to psychiatric institutions with a particular focus on monitoring the use of involuntary placement and treatment.**

Conditions of detention

21. While welcoming the State party's initiatives to improve the conditions of prison facilities by reducing the level of overcrowding and introducing alternative preventive measures, the Committee is concerned that the incarceration rate remains high (290 detainees per 100,000 people). While noting the measures to reduce juvenile confinement and close Vitebsk No. 1 re-educational camp, renovate pretrial units and prisons and

improve the medical treatment of HIV/AIDS and tuberculosis patients, the Committee remains deeply concerned at the continuing reports of the deplorable conditions of places of deprivation of liberty. These include IVS (police isolators for temporary detention), notwithstanding the State party's measures to close the temporary police detention centres in Zelva, Novogrudok and Svisloch. Cells measuring 2 m² (in prison and penal colonies), 2.5 m² (in temporary detention facilities), 3.5 m² (in re-education camps) and at least 4 m² (for pregnant women and women with children) fall short of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and other international standards. The Committee is also concerned at the alleged acts of torture and ill-treatment committed by law enforcement officers and prison personnel in those places, including allegations of widespread use of solitary confinement, which is not subject to appeal. The Committee is also concerned at the inadequate staffing in places of deprivation of liberty, in particular the insufficient number of psychiatrists in prisons and the absence of adequate training of medical personnel and other public officials working with persons deprived of their liberty on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). The Committee regrets the lack of information provided on the independence and documentation and reporting activities of doctors concerning injuries revealing signs of torture and ill-treatment. While welcoming the State party's initiative on distance learning offered to prisoners, the Committee is concerned at the lack of other equally important measures aiming at improving the social reintegration of prisoners, such as their extracurricular activities (arts. 2, 11 and 16).

22. **The Committee urges the State party to take the necessary measures to ensure that prison conditions are in line with the relevant international human rights standards and, in particular, to:**

(a) **Continue efforts aimed at increasing the use of non-custodial measures and alternatives to detention, in keeping with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(b) **Continue to strengthen the measures aimed at further decreasing the number of persons in the prison system and reduce overcrowding with a view to bringing the conditions of detention into line with international standards;**

(c) **Take robust measures to prevent inter-prisoner violence and protect the life and safety of all prisoners; implement appropriate programmes to prevent, monitor and document incidents of inter-prisoner violence; compile official statistics on such incidents; and ensure effective investigation and accountability for such violence;**

(d) **Ensure that solitary confinement remains an exceptional measure of last resort that is imposed for as short a time as possible, in line with international standards; and that the detainees are guaranteed due process rights, such as the right to appeal;**

(e) **Ensure that the Istanbul Protocol is made an essential part of the training of all medical professionals and other public officials working with persons deprived of their liberty with a particular focus on sexual violence; ensure that all alleged cases of torture or ill-treatment are promptly documented in line with the Istanbul Protocol and reported to the competent authorities;**

(f) **Improve access to and the quality of health care, including psychiatric care, for prisoners in all places of deprivation of liberty, including those serving life sentences, provide for adequate medical equipment, increase the number of professional medical staff in all detention facilities and ensure their independence and impartiality;**

(g) **Ensure, with a view to preventing the deterioration of their mental faculties and social abilities, that all persons deprived of their liberty and, in particular, prisoners serving life sentences, have access to meaningful activities, and take measures to integrate life prisoners into the general prison population.**

Detention in labour treatment facilities

23. The Committee notes that the situation of around 8,000 people detained in eight manual labour treatment facilities (LTPs) for alcohol and drug users who have not necessarily committed a crime is particularly worrisome, in particular given the fact that they are reportedly made to perform forced labour during their detention, which might vary between six months and two years with no access to a lawyer and appropriate medical care. The Committee regrets the absence of information from the State party as regards the conditions of women held in labour treatment facilities, which are of particular concern as they allegedly lack access to medical services, including gynaecologists (arts. 2, 11 and 16).

24. **The Committee urges the State party to abolish all forms of "treatment through labour" in labour treatment facilities; provide more information, including up-to-date statistics on those currently subject to this form of detention, the reasons for their detention, the means of challenging such detention and the safeguards in place to prevent torture and ill-treatment in these facilities; and guarantee their access, in particular that of women, to proper medical care.**

Women in detention

25. The Committee is concerned at the reported violence against women in prison facilities perpetrated by officials working there, including strip searches carried out by male guards and sexual abuse, which have also been noted by the Special Rapporteur on Belarus (see A/HRC/35/40, para. 131). The Committee is also concerned at the absence of a mechanism for receiving complaints of sexual violence in those facilities.

26. **The Committee urges the State party to:**

(a) **Improve the conditions of detention for women, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Establish and promote an effective mechanism for receiving complaints of sexual violence and ensure that law enforcement personnel are duly trained on the absolute prohibition of violence against convicted women and on how to receive such complaints, and ensure that an independent mechanism investigates them;**

(c) **Abolish strip searches conducted by guards of the opposite sex.**

Juveniles in detention

27. The Committee is concerned at the reported incidents of juvenile suspects having been placed in pretrial detention cells along with adults. The Committee regrets the absence of a comprehensive juvenile justice system, which is currently under the auspices of the Ministry of Internal Affairs, including the absence of specialized juvenile courts or specially trained and appointed judges to deal with juvenile cases. The Committee is deeply concerned that the lack of such a specialized juvenile justice system leads to the reoccurrence of cases in which incarcerated minors are reportedly subjected to violence, including sexual violence, as was noted by the Special Rapporteur on Belarus (see A/HRC/35/40, para. 80) in the case of a minor in the detention centre in Homiel, where he has been confined despite having a mental illness. Furthermore, the Committee is concerned at the conditions and large number of minors detained in the closed schools, in which they are allegedly subjected to solitary confinement.

28. **The State party should:**

(a) **Ensure that non-custodial measures are normally used for minors who are in conflict with the law and that minors are detained only as a last resort and for the shortest possible period and are separated from adults and afforded full legal safeguards; and stop the practice of placing juvenile suspects in pretrial detention cells along with adults;**

(b) **Establish an effective, specialized and well-functioning juvenile justice system in compliance with international standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing**

Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

(c) Protect minors from any violence, including sexual violence, in places of deprivation of liberty; investigate those cases impartially through an independent body, prosecute and punish those responsible and provide the victims with adequate remedies; open an impartial investigation into the allegations of the minor detained in Homiel and provide him with an appropriate effective remedy;

(d) Bring its legislation and practice on solitary confinement into line with international standards by abolishing the solitary confinement of juveniles as a disciplinary measure, both in law and practice, and in particular in the closed schools.

Lesbian, gay, bisexual, transgender and intersex persons in detention

29. The Committee is concerned at the reports it has received that lesbian, gay, bisexual, transgender and intersex persons in prison facilities are subject to abuse and stigmatization by public officials and fellow inmates. The violent clashes and humiliating and degrading treatment of homosexual prisoners by other inmates and their involuntary segregation from other inmates due to the criminal subculture and hierarchy in prisons aggravate their conditions of detention. The Committee is also concerned at the reported involuntary placement of transgender women with male detainees, which exposes them to a high risk of sexual assault (arts. 2, 11 and 16).

30. **The State party should:**

(a) Take measures to protect lesbian, gay, bisexual, transgender and intersex persons from violence by public officials and fellow inmates, and in particular protect transgender women from violence inflicted by male detainees;

(b) End the discrimination and violence against lesbian, gay, bisexual, transgender and intersex prisoners, abolish the practice of their degrading and involuntary segregation and all other degrading and humiliating practices that still persist in prisons; and investigate promptly, impartially and thoroughly all such allegations, and bring the perpetrators to justice.

Deaths in custody

31. While appreciating the data provided by the State party on the number of deaths in custody, the Committee remains concerned at the discrepancy between the number of complaints lodged alleging torture or ill-treatment by the authorities and denial of medical care, resulting in death, and the number of investigations launched. The Committee is particularly concerned at the State party's failure to carry out an adequate investigation into the allegations that torture by the police resulted in the death of Ihar Barbaschynski, who died in custody in 2015 (arts. 2, 11 and 16).

32. **The State party should ensure an impartial, effective investigation into all deaths in custody alleged to result from torture, ill-treatment or the denial of adequate medical treatment. The Committee urges the State party to carry out an impartial investigation by an independent body into the allegations surrounding Ihar Barbaschynski's death.**

Monitoring of places of deprivation of liberty

33. While noting that the State party has vested public monitoring commissions with the ability to visit places of detention and interview persons detained therein, the Committee is concerned that the effectiveness of the commissions and their ability to prevent torture and ill-treatment in places of deprivation of liberty remains limited. The Committee is particularly concerned that the commissions cannot visit all places of detention without prior notice; that their membership remains under the control of the Ministry of Justice; that they lack access to temporary and pretrial detention facilities, psychiatric hospitals, labour treatment facilities and police cells; and that they have no right to visit all the areas of prison facilities or to speak confidentially with all prisoners.

34. **The Committee urges the State party to:**

(a) **Strengthen the independence of the commissions and provide them with the ability to carry out unannounced visits to all parts of all places of deprivation of liberty, including temporary and pretrial detention facilities, labour treatment facilities, administrative detention facilities, as well as psychiatric institutions, and to speak privately with any person deprived of his or her liberty. Ensure that the commissions include diverse and qualified legal and medical professionals familiar with the relevant international standards, as well as representatives of independent civil society organizations and human rights experts;**

(b) **Publish information on the findings, recommendations and the follow-up on the outcome of each such visit, in a timely manner following the visit;**

(c) **Grant access to independent national and international monitors to all detention facilities in the country, including police cells, temporary and pretrial detention centres, labour treatment facilities, pretrial detention facilities managed by security agencies, administrative detention areas, the detention units of medical and psychiatric institutions, and prisons;**

(d) **Strengthen the cooperation with United Nations human rights mechanisms, as accepted by the State party in the context of the universal periodic review in 2015 (see A/HRC/30/3, paras. 127.33–127.34), and invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the State party;**

(e) **Consider ratifying the Optional Protocol to the Convention, which provides for international and national mechanisms for the prevention of torture in places in which persons are deprived of their liberty.**

Enforced disappearances

35. The Committee regrets that the State party has failed to conduct an impartial and effective investigation of several unresolved cases of enforced disappearance, in particular of the former Minister of the Interior, Yury Zakharenko, the former First Vice-President of the dissolved Belarusian Parliament, Viktor Gonchar, and a businessman, Anatoly Krasovsky (arts. 2, 11, 12, 14 and 16).

36. **Recalling its previous concluding observations (see CAT/C/BLR/CO/4, para. 9), the Committee urges the State party to undertake thorough, impartial and effective investigations through an independent body into all outstanding cases of alleged enforced disappearance and prosecute the perpetrators and provide effective remedies and redress to the families of the victims, including fair and adequate compensation, and as full rehabilitation as possible, including any necessary psychological, social or financial support.**

Violence against women

37. The Committee appreciates that the State party has established a national hotline for victims of domestic violence, awareness-raising campaigns, mobile social services offices and amended the Principles of Crime Prevention Act. However, the Committee is concerned at the reports from the Council of Europe that the Ministry of Internal Affairs acknowledges that its officials receive 200 reports of violence in the family each day, but that most cases do not reach the courts. The State party's reply to the list of issues indicated that there were 3,123 cases concerning "acts of sexual or domestic violence against women and children" for which criminal proceedings were initiated and sent to the Office of the Procurator out of the nearly 6,000 that had been received, and that only 364 cases were in progress. The Committee regrets that the State party has not provided information on the crimes under which such cases had been opened, nor the data requested on the outcome of the prosecutions in terms of criminal convictions and other relevant punishments or measures taken. The Committee notes that the State party is still preparing a draft act on the prevention of domestic violence, but remains concerned that, to date, domestic violence and marital rape are not classified as criminal offences and that the State party did not indicate

that any perpetrators of such acts had been convicted of criminal offences. The Committee regrets the reports that the police commonly recommend a process of reconciliation and fail to register and investigate most cases reported to them. The Committee also regrets the absence of the information it requested on the protection and redress measures provided by the State party to victims of domestic violence or on the availability of crisis shelters and the number of victims who have accessed them, or on the mandatory training programmes for the rehabilitation and retraining of perpetrators of domestic violence (arts. 2, 10, 12, 13, 14 and 16).

38. In connection with the above-mentioned concerns, the Committee notes with regret that the State party remains a source and transit country for many women subjected to sex trafficking and forced labour. While noting the State party's efforts to combat trafficking in persons, the Committee regrets that the State party failed to make available the requested data concerning the redress and rehabilitation services actually provided by it to victims of trafficking or about convictions and punishments for trafficking.

39. **The Committee recommends that the State party:**

(a) **Collect comprehensive statistics on all forms of violence against women through acts or omissions by State agents and others that engage the State's responsibility in accordance with the Convention, and provide these to the Committee, indicating how many are charged, prosecuted and punished as torture, ill-treatment or other crimes under the Criminal Code. It further encourages the State party to adopt legislation criminalizing domestic violence and marital rape; take measures to ensure that police register and effectively investigate allegations of domestic violence; and provide adequate funding for sexual and gender-based violence services so that all victims of these offences have access to medical and legal services, counselling, safe emergency accommodation and shelters. The State party should provide mandatory training to all law enforcement officials, judges and others who interact with victims of all forms of violence against women;**

(b) **Provide effective protection, redress and rehabilitation to victims of human trafficking, including legal, medical and psychological aid and rehabilitation, as well as adequate shelters and assistance in reporting incidents of trafficking to the police; ensure that cases of trafficking are thoroughly investigated, perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; and provide the Committee with comprehensive disaggregated data on the number of investigations, prosecutions and sentences handed down with regard to perpetrators of human trafficking, and on the provision of effective redress to victims.**

Violence against children

40. While noting article 32 of the Constitution and article 9 of the Law on the Rights of the Child, which protect children from acts of violence and exploitation, the Committee is concerned at the reports of violence against children in juvenile facilities, closed schools, the home and day-care settings. The Committee regrets that legislation does not explicitly prohibit corporal punishment against children in all settings and that the State party lacks a specific national policy in this regard (arts. 2, 4 and 16).

41. **The State party should enact legislation to explicitly and clearly prohibit corporal punishment in all settings, including juvenile facilities, closed schools and child welfare facilities, in all parts of the country, and take the measures necessary to prevent such punishment.**

Violence against lesbian, gay, bisexual, transgender and intersex persons

42. The Committee is concerned at reports that lesbian, gay, bisexual, transgender and intersex persons are subjected to violence, such as physical attacks and other ill-treatment, on the basis of their sexual orientation or gender identity by law enforcement officials and private individuals. The Committee is also concerned at reports that the law enforcement authorities fail to act with due diligence in investigating and punishing these cases and in applying legal provisions for crimes motivated by hate (arts. 2, 12, 13 and 16).

43. **The State party should intensify its efforts to ensure prompt, thorough and impartial investigations into allegations of attacks against persons on the basis of their sexual orientation or gender identity; provide training to law enforcement officials and the judiciary on detecting and combating hate-motivated crimes, including those motivated by sexual orientation or gender identity; and develop specific monitoring mechanisms documenting the administrative and judicial measures taken to investigate and prosecute such crimes and the sentences imposed on perpetrators.**

Harassment of lawyers

44. The Committee regrets that the State party has not implemented its previous recommendation to undertake effective investigations into the disbarment and harassment of lawyers representing individuals who complained of torture after being detained in connection with the events of 19 December 2010 (see CAT/C/BLR/CO/4, para. 12). The Committee is also deeply concerned at new allegations that several lawyers for defendants in the "mass riots" cases of March 2017 faced a mandatory extraordinary review of their licences. The Committee is further concerned at the degree of control exercised over the Bar Association by the Ministry of Justice (arts. 2, 12 and 13).

45. **The Committee recommends that the State party strengthen the independence of the Bar Association from the Ministry of Justice and ensure its self-government. The State party should fully investigate the past incidents of disbarment of lawyers representing individuals who have complained of torture and ill-treatment and reinstate their licences, as appropriate.**

Human rights defenders

46. The Committee welcomes the commitment expressed by the State party during the dialogue to abolish article 193 of the Criminal Code, which currently criminalizes participation in unregistered organizations. However, the Committee reiterates its serious concerns at persistent allegations that human rights defenders and journalists in the State party are subjected to intimidation, harassment, arrest, torture and ill-treatment (arts. 2, 12, 16). The Committee is particularly concerned at the reports of widespread harassment of human rights defenders and journalists by public officials before the February and March 2017 protests and at the arrest and imprisonment of Mikhail Zhamchuzhny and Dzmitry Paliyenka.

47. **The Committee urges the State party to:**

(a) **Abolish expeditiously article 193 of the Criminal Code, which currently criminalizes participation in unregistered organizations, in line with the commitment it made during the dialogue with the Committee. Pending abolition of this article, the State party's authorities should discourage police from invoking it as grounds for arresting and prosecuting human rights defenders and journalists;**

(b) **Desist from detaining and prosecuting human rights defenders and journalists on other grounds as a means of intimidation or reprisal. It should ensure effective, impartial investigations are undertaken into the allegations of arbitrary arrest and prosecution of human rights defenders and journalists, including Mikhail Zhamchuzhny and Dzmitry Paliyenka.**

National human rights institution

48. The Committee regrets that the State party has not yet created a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), though it is studying the possibility of doing so (art. 2).

49. **The Committee urges the State party to establish an independent national human rights institution in accordance with the Paris Principles.**

Definition of torture

50. The Committee regrets that the Criminal Code does not define torture as a separate offence and notes that the other relevant articles of the Code highlighted by the State party during the dialogue do not include all acts of torture and the purposes for which it is used as stipulated in article 1 of the Convention, and that they do not provide for the punishment of torture with penalties commensurate with its grave nature (arts. 1, 2, 4 and 5).

51. **The Committee urges the State party to include torture as a separate and specific crime in its legislation and adopt a definition of torture that covers all the elements contained in article 1 of the Convention. The State party should ensure that penalties for the crime of torture are commensurate with the gravity of the crime, as required by article 4 (2) of the Convention.**

Non-refoulement and the use of diplomatic assurances

52. While appreciating the legislative changes that entered into force in July 2017, which provide for additional guarantees of non-refoulement and more favourable protection to refugees, the Committee remains concerned at reports that the State party continues to engage in forced expulsion, deportation, returns and extradition to third countries in which there are substantial grounds to believe that an individual would be in danger of being subjected to torture, and it regrets the absence of comprehensive and disaggregated data from the State party. The Committee is also concerned at reports indicating prolonged detention of people who are in violation of migration legislation, poor conditions in those detention facilities and the lack of fundamental legal safeguards provided to them. The Committee also regrets the lack of information concerning diplomatic assurances (art. 3).

53. **The Committee recommends that the State party:**

(a) **Ensure that all individuals subject to expulsion, deportation, return or extradition have an opportunity for an effective and impartial review by an independent decision-making mechanism of any claims that they are at risk of being subjected to torture, the decisions of which should have suspensive effect;**

(b) **Refrain from detaining migrants, including minors who may be detained with their relatives, in regular pretrial or temporary detention facilities and provide them with access to a lawyer and other fundamental legal safeguards;**

(c) **Establish a procedure to identify persons in situations of vulnerability and monitor the detention of undocumented migrants on a regular basis;**

(d) **Refuse to accept diplomatic assurances in relation to the extradition of persons from its territory when these assurances are used as a loophole to undermine the principle of non-refoulement as set out in article 3 of the Convention, and when there are substantial grounds for believing that they would be in danger of being subjected to torture in that State;**

(e) **Compile and provide the Committee with detailed statistical data, disaggregated by country of origin, on the number of persons who have requested asylum or refugee status, and the outcomes of those applications, as well as the number of expulsions, deportations or extraditions that have taken place and the countries to which individuals were returned.**

Death penalty

54. The Committee is deeply concerned that the Criminal Code still provides for the death penalty as a form of punishment for 13 criminal offences, and that it is continuously imposed and enforced in criminal proceedings, with six reported executions of death row inmates since its last review (art. 16). It also notes the cases against Belarus concerning *Yuzepchuk* (CCPR/C/112/D/1906/2009), *Selyun* (CCPR/C/115/D/2289/2013), *Grishkovtsov* (CCPR/C/113/D/2013/2010) and *Burdyko* (CCPR/C/114/D/2017/2010), and those submitted by *Kovaleva et al.* (CCPR/C/106/D/2120/2011) and *Zhuk* (CCPR/C/109/D/1910/2009), in which the Human Rights Committee found, inter alia, confessions of guilt obtained under duress or torture. In the cases concerning Alexandr

Grunov (communication No. 2375/2014), Sergey Khmelevsky (communication No. 2792/2016) and Gennady Yakovitsky (communication No. 2789/2016), the individuals were executed while proceedings are still pending before the Human Rights Committee. The Committee is further concerned at consistent reports that persons on death row are placed in solitary confinement, the conditions of detention are deplorable and the dates of executions or places of burial are not provided to the families in a timely manner, as required by the State party's law.

55. **Recalling the Committee's previous concluding observations (see CAT/C/BLR/CO/4, para. 27), the State party should:**

(a) **Urgently consider the establishment of a moratorium on executions, with a view to abolishing the death penalty, commute death sentences to prison sentences, and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;**

(b) **Bring prison conditions for individuals sentenced to death into compliance with international human rights standards;**

(c) **Undertake a comprehensive review of all cases in which capital punishment has been handed down, suspend the judgment in any case involving allegations that a defendant's confession was obtained through torture and ensure that any such claims are effectively and promptly investigated;**

(d) **Provide prompt notification to relatives about the date and place of any execution pending the urgent establishment of a moratorium on executions;**

(e) **Implement fully the Views adopted by the Human Rights Committee in the cases of Vasily Yuzepchuk, Pavel Selyun, Oleg Grishkovtsov, Andrei Burdyko, Lyubov Kovaleva and Svetlana Zhuk.**

Training

56. The Committee regrets the lack of relevant information provided by the State party on whether it provides targeted training for medical and law enforcement personnel, security, prison and judicial officials and others involved in the custody, interrogation or treatment of persons under State or official control on matters related to the prohibition of torture and other ill-treatment, or on its efforts to evaluate and assess the training already being provided (art. 10).

57. **The State party should provide mandatory training on the provisions of the Convention and the absolute prohibition of torture for public officials charged with the various functions enumerated in article 10 of the Convention; introduce training programmes on non-coercive investigation techniques; and ensure that the Istanbul Protocol is made an essential part of the training of all medical professionals and other public officials working with persons deprived of their liberty. Such training should involve the study of specific cases and should also focus on sexual and gender-specific violence; and develop methodologies to assess the impact of these training programmes.**

Redress, including compensation and rehabilitation

58. **The Committee notes with regret that the State party provided it with no information concerning the means of redress, including compensation and rehabilitation, provided to victims of torture or ill-treatment. The Committee is further concerned at the State party's lack of capacity to provide rehabilitation to victims of torture (arts. 2, 4, 12, 14 and 16).**

59. **The Committee, recalling its general comment No. 3 (2012) on the implementation of article 14, urges the State party to ensure that all victims of torture and ill-treatment, as well as relatives of the disappeared, obtain redress, together with adequate compensation and rehabilitation, including in cases in which the perpetrator has not been identified or convicted of a crime.**

Follow-up procedure

60. The Committee requests the State party to provide, by 18 May 2019, information on follow-up to the Committee's recommendations on fundamental legal safeguards, effective investigation of allegations of torture and ill-treatment and the situation of human rights defenders (see paras. 8, 16 and 47 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.

Other issues

61. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet party.

62. The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

63. The State party is invited to submit its next report, which will be its sixth periodic report by 18 May 2022. For that purpose and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.